

SEKI, NISHIMURA & WATASE, LLP
GILBERT M. NISHIMURA (SBN 57905)
ANDREW C. PONGRACZ (SBN 258554)
apongracz@snw-law.com
600 Wilshire Boulevard, Suite 1250
Los Angeles, California 90017
Tel.: (213) 481-2869
Fax: (213) 481-2871

Attorneys for Defendant Samuel Aldama

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SHELDON LOCKETT; MICHELLE
DAVIS; and CLYDE DAVIS

Plaintiffs,

vs.

COUNTY OF LOS ANGELES, a
public entity; LOS ANGELES
COUNTY SHERIFF'S
DEPARTMENT; a law enforcement
agency; former SHERIFF JIM
MCDONNELL; MIZRAIN ORREGO,
a Deputy Los Angeles County Sheriff;
SAMUEL ALDAMA, a Deputy Los
Angeles County Sheriff; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 2:18-cv-5838-PJW
[Assigned to Hon. Patrick J. Walsh]

**DECLARATION OF ANDREW C.
PONGRACZ FILED IN SUPPORT
OF DEFENDANT SAMUEL
ALDAMA'S OPPOSITION TO
PLAINTIFF'S EX PARTE (Doc. 156)**

**Hearing:
Date: August 3, 2020
Time: 11:00 a.m.
Location: Telephonic**

Complaint Filed: July 3, 2018
Trial Date: None

[intentionally blank]

DECLARATION OF ANDREW C. PONGRACZ

I, Andrew C. Pongracz, declare as follows:

1. I am an attorney admitted to the United States District Court for the Central District of California. I am an attorney at Seki, Nishimura and Watase, LLP, counsel of record for defendant Samuel Aldama in this matter.

2. I have personal knowledge of the facts contained in this declaration. I could and would testify to the contents of this declaration if called upon to do so.

3. Plaintiff's counsel took the deposition of my client Defendant Samuel Aldama on three separate occasions: December 19, 2019, May 16, 2020, and May 22, 2020.

4. Plaintiff's counsel took the deposition of Deputy Austin Embleton on December 3, 2019.

5. Deputy Aldama's reply to Plaintiff's Opposition to Deputy Aldama's Motion for Summary Judgment is due August 3, 2020.

6. I am a print and online subscriber to the Los Angeles Times. On July 30, 2020 shortly before 5 p.m. PDT I accessed the website:
<https://www.latimes.com/california/story/2020-07-30/sheriff-clique-compton-station-executioners>

7. I removed from this declaration the hyperlink that the above text automatically generates. Attached as **Exhibit A** is a pdf printout of the story I read in the Los Angeles Times. Plaintiff's counsel Mr. Sweeney is quoted multiple times in the article and on the bottom of page 7 it specifically references Plaintiff's "request to reopen discovery" in this case.

8. I also viewed news coverage on ABC 7 Eyewitness News at 5 pm on July 30, 2020 pertaining to the same subject matter as the LA Times Article.

9. As counsel for Deputy Aldama, I was given less than four hours' notice of Plaintiff's ex parte application.

1 10. On July 28, 2020 at 9:39 a.m. I received an email from Plaintiff's
2 Steve Glickman. It is the same as the one included in his application. The email
3 had a .pdf attachment with a filename "Gonzalez-claim for damages.pdf" Using a
4 copy of Adobe Acrobat Pro DC on a MacbookPro laptop, I saved the file to my
5 local hard drive and opened the file. I clicked on File at the top of the screen, then
6 on the Properties item in the dropdown menu. In so doing, I was able to access the
7 properties of the file. There are five windows in the Properties viewer: all of the
8 information I report comes from the "Description" window that is the default
9 window that opens when Properties are viewed. Here are the notable observations
10 from the file I received as an attachment from Attorney Glickman

- 11 a. The file [name] is: "Gonzalez-claim for damages.pdf"
- 12 b. the "File Size" indicated by my Adobe Acrobat DC software is
13 "1.19 MB (1,247,577 Bytes).
- 14 c. The field "Fast Web View" reads "No"

15 11. Later the same day I visited the website WitnessLA as described in
16 Plaintiff's *ex parte*. Specifically, I navigated to [https://witnessla.com/the-](https://witnessla.com/the-executioners-does-a-violent-deputy-gang-rule-la-countys-compton-station/)
17 [executioners-does-a-violent-deputy-gang-rule-la-countys-compton-station/](https://witnessla.com/the-executioners-does-a-violent-deputy-gang-rule-la-countys-compton-station/)

18 12. Once at the website, I clicked on a hyperlink indicating it was a
19 "link" to the Government Claim contained in the PDF referenced by Plaintiff's
20 counsel (and the website article itself). This link caused an automatic download of
21 a .pdf file entitled "Gonzalez-Executioners-Complaint.pdf"

22 13. I followed the exact same methodology described in paragraph 10
23 above to view the Properties of this file in the same Adobe Acrobat Pro DC
24 software I used to review the file I received earlier. Here is what I found:

- 25 a. The file [name] is: "Gonzalez-Executioners-Complaint.pdf"
- 26 b. The file size indicated by my Adobe Acrobat DC software is "1.19
27 MB (1,248,263 Bytes).
- 28 c. The field "Fast Web View" reads "Yes"

1 14. There are at least three material discrepancies between the file
2 properties of the pdf file I received from Plaintiff's counsel and the file available
3 on WitnessLA: File Name, Size, and Fast Web View enabling.

4 15. On the basis of my metadata review of the two files, I formed an
5 opinion and belief that the file I received from Mr. Glickman at 9:39 a.m. did not
6 come from the WitnessLA website article referenced in the application.

7 16. At approximately 1:36 p.m. on July 28, 2020, during a previously
8 scheduled expert deposition held via Zoom Videoconference, I indicated to Mr.
9 Glickman that I, as Deputy Aldama's counsel, would not stipulate to the requested
10 relief. Plaintiff's ex parte application was filed within 30 seconds of my verbal
11 response to Mr. Glickman and I received the ECF email notification of Mr.
12 Glickman's filing at 1:36 p.m.

13 I declare under penalty of perjury of the laws of the United States the
14 foregoing is true and correct. Dated July 30, 2020, at Los Angeles, California.

15 /s/ Andrew C. Pongracz

16 Andrew C. Pongracz
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Intentionally blank